

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ePLUS, INC.,

Plaintiff,

v.

Civil Action No. 3:09cv620

LAWSON SOFTWARE, INC.,

Defendant.

ORDER

Having reviewed the PLAINTIFF ePLUS INC.'S MOTION TO EXCLUDE DEFENDANT'S PROPOSED TRIAL EXHIBITS RELATING TO INVALIDITY THEORIES NOT DISCLOSED IN THE COURT-ORDERED SECOND SUPPLEMENTAL INVALIDITY STATEMENT OR RELIED UPON BY DEFENDANT'S INVALIDITY EXPERT (Docket No. 492), the supporting and opposing memoranda, and finding that the DX-97, DX-98 and DX-112 were not disclosed by the defendant in its Second Supplemental Statement of Invalidity Defenses and that the invalidity expert for the defendant, Dr. Shamos, does not rely on DX-112 in any way and does not rely on DX-97 or DX-98 to support his obviousness opinions and finding that DX-112 is not disclosed in responses to the plaintiff's interrogatories, and further finding that DX-97 and DX-98 relate to the so-called J-CON Systems existing in October 1989 and March 1993 whereas the J-CON System that was disclosed is that version which is described in the April 1994 J-CON Manual which was disclosed in the Second Supplemental Statement of Invalidity

Defenses and in the invalidity expert report, and further finding that the expert, Dr. Shamos, does not rely on DX-97 or DX-98 to support his opinion that the alleged J-CON prior art system renders the asserted claims obvious, it is hereby ORDERED that the PLAINTIFF ePLUS INC.'S MOTION TO EXCLUDE DEFENDANT'S PROPOSED TRIAL EXHIBITS RELATING TO INVALIDITY THEORIES NOT DISCLOSED IN THE COURT-ORDERED SECOND SUPPLEMENTAL INVALIDITY STATEMENT OR RELIED UPON BY DEFENDANT'S INVALIDITY EXPERT (Docket No. 492) is granted and therefore DX-97, DX-98 and DX-112 and any testimony related thereto or based thereon, are excluded from admission at trial.

It is further ORDERED that the facts and legal contentions are adequately presented in the materials before the Court and oral argument would not aid the decisional process.

It is so ORDERED.

_____/s/ REP_____
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: November 19, 2010